

## § 606.44

month period ending on September 30 of the year for which the latest deferral was obtained, the State will have maintained its solvency effort, but if less, then a reduction in solvency effort will have occurred.

(4) Notwithstanding the results of the calculation in paragraph (b)(3) of this section, if there is no increase in revenue receipts or no decrease in benefit outlays between the base year and the year for which continuation of deferral is requested, then a reduction in solvency effort will have occurred.

(c) *Effect of determination.* (1) If the UIS Director determines that a State has maintained its solvency effort, continuation of deferral will be granted, and the State will be required to timely pay the deferred interest payable prior to October 1 of the year with respect to which such determination is made.

(2) If the UIS Director determines that a State failed to maintain its solvency effort, all deferred interest shall be due and payable prior to October 1 of the year with respect to which such determination is made.

(d) *Application and information.* (1) The Governor of a State which has decided to request continuation of a previously approved deferral of interest payments shall apply to the Secretary of Labor no later than July 1 of the year for which continuation is requested. The Governor is required to notify the Department on or before September 1 of such taxable year of any action impacting upon the State's application which has occurred or will occur subsequent to the date of the initial application and on or before September 30.

(2) In support of the application by the Governor, there shall be submitted for the purposes of the estimates required in paragraph (b) of this section documentation as specified in § 606.22 (b)(1) through (4), (c) and (f) and bearing upon the application for continuation of deferral, in terms of the relevant comparison between revenue receipts and benefit outlays.

### § 606.44 Notification of determinations.

The UIS Director will make determinations under §§ 606.41, 606.42, and 606.43 on or before September 10 of the

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taxable year, will promptly notify the applicants and the Secretary of the Treasury of such determinations, and will cause notice of such determinations to be published in the FEDERAL REGISTER. The UIS Director also will inform the Secretary of the Treasury and cause notice to be published in the FEDERAL REGISTER of information with respect to delayed payment of interest as provided in § 606.40.

## PART 609—UNEMPLOYMENT COMPENSATION FOR FEDERAL CIVILIAN EMPLOYEES

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AUTHORITY: 5 U.S.C. 8508; Secretary's Order No. 4-75, 40 FR 18515; (5 U.S.C. 301). Interpret and apply secs. 8501-8508 of title 5, United States Code.

SOURCE: 47 FR 54687, Dec. 3, 1982, unless otherwise noted.

**Subpart A—General Provisions****§ 609.1 Purpose and application.**

(a) *Purpose.* Subchapter I of chapter 85, title 5 of the United States Code, as amended by Pub. L. 94-566, 90 Stat. 2667, 5 U.S.C. 8501-8508, provides for a permanent program of unemployment compensation for unemployed Federal civilian employees. The unemployment compensation provided for in subchapter I is hereinafter referred to as unemployment compensation for Federal employees, or UCFE. The regulations in this part are issued to implement the UCFE Program.

(b) *First rule of construction.* The Act and the implementing regulations in this part shall be construed liberally so as to carry out the purposes of the Act.

(c) *Second rule of construction.* The Act and the implementing regulations in this part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) *Effectuating purpose and rules of construction.* (1) In order to effectuate the provisions of this section, each State agency shall forward to the United States Department of Labor (hereafter Department), not later than 10 days after issuance, a copy of each judicial or administrative decision ruling on an individual's entitlement to payment of UCFE or to credit for a waiting period. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to UCFE or waiting period credit.

(2) If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or this part, the Department may at any time notify the State agency of the Department's view. Thereafter the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform

the claims deputy or hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or this part, the Department may at any time notify the State agency of the Department's view. If the determination, redetermination, or decision in question denies UCFE to a claimant, the steps outlined in paragraph (d)(2) of this section shall be followed by the State agency. If the determination, redetermination, or decision in question awards UCFE to a claimant, the benefits are "due" within the meaning of section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1), and therefore must be paid promptly to the claimant. However, the State agency shall take the steps outlined in paragraph (d)(2) of this section, and payments to the claimant may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the claimant; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of UCFE and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the determination, redetermination, or decision awarding UCFE or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the claimant.

(4)(i) If any determination, redetermination, or decision, referred to in paragraph (d)(2) or paragraph (d)(3) of this section, is treated as a precedent for any future UCFE claim or claim

under the UCX Program (part 614 of this chapter), the Secretary will decide whether the Agreement with the State entered into under the Act shall be terminated.

(ii) In the case of any determination, redetermination, or decision that is not legally warranted under the Act or this part, including any determination, redetermination, or decision referred to in paragraph (d)(3) of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State shall be terminated and whether other action shall be taken to recover such sums for the United States.

(5) A State agency may request reconsideration of a notice issued pursuant to paragraph (d)(2) of paragraph (d)(3) of this section, and shall be given an opportunity to present views and arguments if desired.

(6) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

**§ 609.2 Definitions of terms.**

For the purposes of the Act and this part:

(a) *Act* means subchapter I of chapter 85, title 5, United States Code, 5 U.S.C. 8501-8508.

(b) *Agreement* means the agreement entered into pursuant to the Act between a State and the Secretary under which the State agency of the State agrees to make payments of unemployment compensation in accordance with the Act and the regulations and procedures thereunder prescribed by the Department.

(c) *Based period* means the base period as defined by the applicable State law for the benefit year.

(d) *Benefit year* means the benefit year as defined by the applicable State law, and if not so defined the term means the period prescribed in the agreement with the State or, in the absence of an Agreement, the period prescribed by the Department.

(e) *Federal agency* means any department, agency, or governmental body of the United States, including any instrumentality wholly or partially owned by the United States, in any branch of the Government of the United States, which employs any individual in Federal civilian service.

(f) *Federal civilian service* means service performed in the employ of any Federal agency, except service performed—

(1) By an elective official in the executive or legislative branches of the Government of the United States;

(2) As a member of the Armed Forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(3) By Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22 of the United States Code;

(4) Outside the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia, by an individual who is not a citizen of the United States;

(5) By an individual excluded by regulations of the Office of Personnel Management from civil service retirement coverage provided by subchapter III of chapter 83 of title 5 of the United States Code because the individual is paid on a contract or fee basis;

(6) By an individual receiving nominal pay and allowances of \$12 or less a year;

(7) In a hospital, home, or other institution of the United States by a patient or inmate thereof;

(8) By a student-employee as defined by 5 U.S.C. 5351; that is: (i) A student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, or student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency as defined in section 5351; or

(ii) Any other student-employee, assigned or attached primarily for training purposes to such a hospital, clinic, or medical or dental laboratory operated by such an agency, who is designated by the head of the agency with the approval of the Office of Personnel Management;